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May 10, 2005

The Honorable Sue L. Robinson  
844 North King Street  
Lock Box 31  
Wilmington, DE 19801

***Re: Tommy McCray v. Williams, et al.***  
***C.A. No. 04-CV-173-SLR***

Dear Judge Robinson:

Counsel for Defendant FCM filed a Motion to Dismiss accompanied by a brief on February 2, 2005. Pursuant to the scheduling order, Plaintiff's Answering Brief was due on April 22, 2005. As of May 10, 2005, plaintiff has not responded to Defendant's Motion to Dismiss.

As plaintiff has failed to comply with the Court's scheduling timeline, Defendant FCM requests that this Court consider its Motion to Dismiss unopposed or, in the alternative, that this Court decide the matter based upon the motions and brief before it. Please do not hesitate to contact me with any questions or concerns.

Respectfully yours,

/s/ Dana M. Spring

Dana M. Spring

cc: Richard W. Hubbard, Esquire  
Tommy McCray SBI #164599